

REMARKS

Reconsideration of this Application is respectfully requested. Claim 5 is amended and Claims 1 and 8 are cancelled, collectively, without prejudice or disclaimer. New dependent Claims 47-49 are added. Claims 5 and 47-49 are in this case.

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Significantly, the Examiner indicates that Claim 5 would be allowable if amended or rewritten to overcome issues raised as to indefiniteness, as set forth below. In finding the subject matter of Claim 5 allowable, the Examiner determined that the cited references taken singly, or in combination, do not anticipate nor do they render obvious the invention, as claimed. Specifically, the Examiner indicates that the “prior art” does not teach nor does it suggest:

“an electronic keyboard instrument defined by upper and lower surfaces arranged generally parallel to one another with corresponding opposing curvilinear edges, and side surfaces separating the upper and lower surfaces, the side surfaces having edges for sealing engagement with the curvilinear edges, the instrument comprising a controller for enabling activation of electronic signals having audible, visible, amplifiable, or recordable characteristics, a power source for operating the controller; a first arcuate keyboard having a first selected length and oriented in a first position such that (i) audible notes of music from at least one internal sound module and/or at least one external sound module, (ii) recordable data to be enhanced or modified by an external sequencer or program controlled apparatus, (iii) photoelectric signals, and (iv) processes or mechanisms, triggered or controlled by external signals or data, for controlling machines, video playback or lighting, are generated and/or activated using a first hand of a user; a second arcuate keyboard having a second selected length, the second keyboard being generally coextensive with the first and oriented in a fashion generally opposite to that of the first such that (i) audible notes of music from at least one internal sound module and/or at least one external sound module, (ii) recordable data to be enhanced or modified by an external sequencer or program

controlled apparatus, (iii) photoelectric signals, and (iv) processes or mechanisms, triggered or controlled by external signals or data, for controlling machines, video playback or lighting, are generated and/or activated using a second hand of the user; each of the first and second arcuate keyboards being characterized by keys of continuously varying length, the keys being generally longer at the respective keyboard ends and shorter at the respective keyboard center so as to define an arcuate shape and enhance user operation, an interface for connecting the controller to at least one external device having sound module, and/or sequencing and signal enhancement functions, a plurality of peripheral devices associated with the controller for interactive control and manipulation of the signals, and a wearable support mounted to the instrument for suspending the first and second keyboards from the user's body during instrument operation.

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As to the other particulars of the Office Action, the Examiner initially objected to Claims 1 and 5 under 37 C.F.R. § 1.75(a) on grounds that these Claims fail to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Examiner notes that these Claims include the limitation “for controlling machines, video playback or lighting, and/or the like may be generated and/or activated using a first hand of a user”. He then asserts that the phrase “may be generated and/or activated” does not properly describe the metes and bounds of Applicant's invention. In addition, he says, it is unclear if the stated functions are required to be generated and/or activated by the claim or not. The Examiner concludes that an electronic keyboard instrument which controls machines, video playback or lighting, and similarly an electronic keyboard instrument which does not control machines, video playback or lighting then properly reads on Applicant's claimed invention. Appropriate action, says the Examiner, is required.

The Examiner then rejected Claims 1 and 5 under 35 U.S.C. § 112, Second Paragraph, for indefiniteness. More specifically, the Examiner states that Claims 1 and 5 include the limitation

“electronic signals having audible, visible, amplifiable, recordable ~~and/or like~~ characteristics”. According to the Examiner, this limitation does not properly describe the metes and bounds of Applicant’s invention. He explains that it is unclear which additional electronic signal characteristics would read on Applicant’s intended meaning of “like characteristics”. For examining purposes, he says, this limitation has, therefore, been interpreted as stating “electronic signals having audible, visible, amplifiable, **or** recordable characteristics” (bold emphasis added).

Furthermore, the Examiner continues, Claims 1 and 5 include the limitation “(iv) processes or mechanisms, triggered or controlled by external signals or data”, but, he asserts, they do not disclose which processes or mechanisms would properly read on this limitation. The Examiner explains that it is unclear whether “processes or mechanisms” are meant to further limit or broaden Applicant’s Claims since, the Examiner says, these terms are not further described with respect to the structure of the claimed electronic keyboard.

Last, the Examiner finds that these Claims additionally include the limitation “for controlling machines, video playback or lighting, and/or the like” which, the Examiner similarly asserts, does not properly describe the metes and bounds of Applicant’s invention. The Examiner believes it is unclear which additional functions would read on Applicant’s intended meaning of “or the like”. Hence, for examining purposes, the Examiner has interpreted this limitation as “for controlling machines, video playback **or** lighting” (bold emphasis added).

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Accordingly, Claim 5 has been so amended to delineate (i) - - electronic signals having audible, visible, amplifiable, or recordable characteristics - -, (ii) - - processes triggered or controlled by external signals or data - -, and (iii) - - for controlling machines, video playback or lighting - -, to

better define the invention without limiting effect.

Withdrawal of the Examiner's objections under § 112, Second Paragraph, is therefore respectfully requested.

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Next, the Examiner has rejected Claim 1 under 35 U.S.C. § 103(a) for obviousness over Tait, U.S. Patent No. 4,304,167, in view of Hill, U.S. Patent No. 4,126,070. In particular, the Examiner takes the position that Tait discloses (at Column 1, lines 51-55) an electronic keyboard instrument which comprises controllers for enabling activation of electronic signals having visual characteristics (lighting), the Examiner making reference, in this regard, to Column 3, lines 20-24. According to the Examiner, FIG. 1 of Tait shows an electronic keyboard instrument having a first keyboard (allegedly manual 10) with a first length and oriented in a first direction (i.e., toward the user), and a second keyboard (purportedly manual 16) having a second length, being generally coextensive with and oriented generally opposite to the first keyboard (the Examiner citing again to item 10). As can purportedly be seen from FIG. 1 as well, audible notes of music from internal sound modules are typically generated by the hands of a user through actuation of keys of electronic keyboards. It is further disclosed, says the Examiner, that an external program controlled apparatus (i.e., computer) is in communication with the electronic keyboard (the Examiner referring to Column 1, lines 47-50). The Examiner reasons that this would allow data transfer to the external program controlled apparatus, and that the data could then be recorded (i.e., stored) and modified on the external program controlled apparatus. Moreover, the Examiner indicates, Tait discloses that processes for controlling lighting are also activated using the hands of the user (at Column 3, lines 20-24).

Furthermore, the Examiner states that FIG. 2 of Tait shows an interface (i.e., panel) for

connecting the controller to an external device such as a synthesizer (at Column 1, lines 51-53) where synthesizers are purportedly known in the art to have a sound module and signal enhancement functions. The controllers are additionally disclosed, the Examiner continues, to include a plurality of peripheral devices (switches and slide ports) for interactive control and manipulation of signals (referring to Column 3, lines 20-24). Such electronic keyboard instrument, he says, also includes a wearable support (i.e., support means) mounted to the instrument for suspending the first keyboard (item 10) and second keyboard (item 16) from the user's body during operation (the Examiner citing Column 1, lines 39-42).

The Examiner admits that Tait fails to explicitly disclose a power source connected to the electronic keyboard instrument, and photoelectric signals used by the electronic keyboard instrument. He then looks to Hill for his alleged teaching of an electronic keyboard instrument having a power source (or source of current) and using photoelectric signals (purportedly indicated at Column 8, lines 4-12).

Accordingly, the Examiner concludes, because these references allegedly pertain to an electronic keyboard instrument, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to have modified the electronic keyboard instrument, as allegedly set forth by Tait, to include a power source connected to the electronic keyboard instrument, and photoelectric signals used by an electronic keyboard instrument, as purportedly taught by Hill. Doing so, says the Examiner, would provide a portable electronic keyboard instrument which can be "free to move away from a fixed-panel location", as allegedly stated by Tait (the Examiner referring to Column 1, lines 56-61).

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Notwithstanding cancellation of Claims 1 and 8 herein, Applicant respectfully disagrees with the Examiner's reading and application of the cited references. Applicant proceeds with Claim 5 with additional new dependent Claims 47-49, without prejudice or disclaimer, for completeness and in order to advance prosecution on the merits.

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Finally, in the Office Action, the Examiner acknowledges Applicant's election of Invention Group I, with traverse, for prosecution in the present Application, the Examiner having issued a Restriction Requirement in the Application by which he sought to restrict examination of the Application to one of two Inventions. The first was Invention Group I (Claims 1 and 5) directed to an electronic keyboard, and the second was Invention Group II (Claim 8) directed to a floating key arrangement.

Applicant respectfully maintains his traversal of the Examiner's Restriction, as indicated in his Notice Of Election And Response To Restriction Requirement.

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Applicant has made a good faith attempt to place this Application in condition for allowance.

Favorable action is requested. If there is any further point requiring attention prior to allowance, the

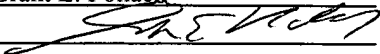
Examiner is asked to contact Applicants' counsel at (646) 265-1468.

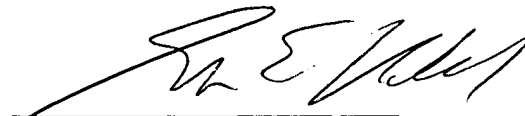
Respectfully submitted,

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I hereby certify that this correspondence is being deposited with the United States Postal Service as First Class Mail in an envelope with sufficient postage addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on April 1, 2010

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